**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR**

**O R D E R**

**S.B. CRIMINAL MISC. PETITION NO.1315/2005**
(Surendra Kumar Vs. State)

Date of order : 09.05.2006

**P R E S E N T**

**HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS**

Mr. R.K. Charan, for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.

By way of filing the present petition under Section 482 Cr.P.C., the petitioner has prayed for quashing of criminal proceedings in Special Case No.9/2000 pending in the court of Special Judge, Anti-Corruption Cases, Udaipur.

It is contended by the learned counsel for the petitioner that the facts of the case are that a challan was filed against the petitioner for misappropriation of a sum of Rs.50,831 while working on the post of UDC during the period from 1991 to 1993. After filing the challan, the learned trial court framed charges against the petitioner on 25.7.2001 for the offence under Section 13 (2) read with Section 13 (1) (C) (D) of Prevention of Corruption Act and under Sections 409, 420, 468 and

471 I.P.C. Thereafter, on the application submitted by the prosecution that separate charge-sheets for each charges is necessary, the learned trial court passed the order on 21.4.2003 for filing separate charge-sheets by the prosecution. It is contended by the learned counsel for the petitioner that since 21.4.2003, several adjournments were sought by the prosecution but no separate charge-sheets were filed and thereafter, an application was moved by the prosecution on 10.6.2004 with the prayer that the trial of the case may be proceeded in accordance with the earlier charge-sheet and the case was further adjourned on so many dates. Lastly, vide order dated 28.10.2005, learned trial court further ordered and observed that the prosecution has not complied with the order dated 21.4.2003 and as such the prosecution is further directed to comply with the order dated 21.4.2003 and till the compliance is made, the trial of the case shall be kept in abeyance. It is contended by the learned counsel for the petitioner that the petitioner is facing trial since 2001 and for the lack on the part of the prosecution in not filing separate charge-sheet, he cannot be made to suffer. Further, it is contended by the learned counsel for the petitioner that when the prosecution itself filed an application with the prayer that the trial may be proceeded on the basis of the charges framed earlier, then obviously, the prayer was to be accepted by the learned trial court because the application filed by

the prosecution dated 10.6.2004 clearly speaks that the prosecution does not want to file separate charge-sheets as prayed earlier. Therefore, in the interest of justice, the order passed by the learned trial court dated 28.10.2005 may be quashed and trial of the case may be ordered to be commenced without any further delay.

I have heard learned counsel for the petitioner as well as learned Public Prosecutor and perused the order impugned.

From the application dated 10.6.2004 filed by the prosecution, it is clear that the prosecution itself is not desirous to file separate charge-sheets against the petitioner. Thus, in these circumstances, there was no occasion for the trial court to keep the trial in abeyance as ordered vide order dated 28.10.2005 and to direct the prosecution to file separate charge-sheets in compliance of the order dated 21.4.2003. Once, the prosecution has show disinclination to file separate charge-sheets against the petitioner and prayed for commencement of the trial, then, in my opinion, the order dated 28.10.2005 passed by the trial court to comply with the order dated 21.4.2003 whereby the prosecution has again been asked to file separate charge-sheets against the petitioner, is not justified. Therefore, in the interest of justice and looking to the provisions as

enshrined under Article 21 of the Constitution of India where speedy trial is necessary, if on the next date of hearing i.e. 30.6.2006, no separate charge-sheets are filed by the prosecution, then, it is directed that the trial court shall proceed with the case upon the charges framed earlier on 25.7.2001. Further, it is expected from the trial court to expedite the trial within reasonable time.

With the above observations and directions, the petition stands disposed of.

**(GOPAL KRISHAN VYAS), J.**

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